

## MINUTES OF HARRISONBURG PLANNING COMMISSION

July 10, 2013

The Harrisonburg Planning Commission held its regular meeting on Wednesday, July 10, 2013 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Richard Baugh, Gil Colman, MuAwia Da'Mes, Deb Fitzgerald, Jefferson Heatwole, and Henry Way.

Members absent: Judith Dilts.

Also present: Stacy Turner, Director of Planning and Community Development; Adam Fletcher, City Planner.

Chair Fitzgerald called the meeting to order and determined there was a quorum with six members in attendance. She then asked for a correction to be made within the attendance portion of the June minutes to reflect that Mrs. Turner was periodically in and out of the Planning Commission meeting on June 12, 2013. Chair Fitzgerald continued asking if there were any other corrections, comments or a motion regarding the minutes from the June 12, 2013 Planning Commission meeting.

Mr. Heatwole moved to approve the minutes as amended from the June 12, 2013 regular Planning Commission meeting.

Mr. Colman seconded the motion.

Mr. Way abstained from voting because he was not in attendance at the meeting.

All members voted in favor of approving the amended June 2013 minutes (5-0).

### New Business

#### *Preliminary Plat – Daly Subdivision (Ramblewood Road)*

Chair Fitzgerald read the request and asked staff to review.

Mr. Fletcher said the Comprehensive Plan designates this area as Low Density Mixed Residential. This designation states that these large undeveloped areas located at the edge of the City are planned for residential development containing a mix of large and small-lot single family detached dwellings and attractive green spaces. Planned “open space” (also known as “cluster”) developments are encouraged. The intent is to allow innovative residential building types and permit creative subdivision design solutions that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and protection of environmental resources. Such innovative residential building types as zero lot-line development and patio homes will be considered as well as other new single family residential forms. The gross density of development in these areas should be in the range of 1 to 6 dwelling units per acre.

The following land uses are located on and adjacent to the property:

Site: Parcel of 96 +/- acres, 13.056 acres of which is undeveloped land located in the City zoned R-1, Single Family Residential and 83 +/- acres of which is in Rockingham County and zoned A-2, General Agricultural District, containing a single family residence

North: Undeveloped parcel zoned R-1, Single Family Residential

East: 83 +/- acre portion of this property containing a single family home, located in Rockingham County and zoned A-2, General Agricultural District

South: Undeveloped parcel, zoned R-1, Single Family Residential, and further south a single family home and The Crossings single family subdivision, all zoned R-1

West: Single family residences, zoned R-1, Single Family Residential

The property requested to be subdivided consists of 96 +/- acres of land and crosses the City-County boundary, with 13.056 acres in the City. The owner has applied to subdivide a lot of 11,869 square feet, fronting on Ramblewood Road, with the intention of constructing a single family dwelling on the newly created parcel.

Often subdivisions of only one new lot fall into the “minor subdivision” classification, requiring only administrative review and approval. The “minor subdivision” process, however, is available only to parcels of five or less acres in area; therefore this subdivision must proceed through the preliminary subdivision process.

Ramblewood Road, in front of this property, is a prescriptive right of way as it has never been dedicated for use as a road and the boundary of the property extends into the paved street area. Properties in the City fronting public streets that do not contain the required right of way width are required to dedicate the required right of way when they undergo subdivision or development. In addition, if the street itself does not meet minimum City standards for the designated street classification, they are also required to install street improvements (such as pavement widening, curb, gutter and sidewalk) during the subdivision or site plan process. However, for subdivisions of the type requested here, property zoned R-1 with only one additional lot created on a City maintained street, that fit within the minor subdivision qualifications, these street improvements are typically not required.

The minor subdivision process, created by the Subdivision Ordinance, Section 10-2-8. Waiver of chapter requirements applies to parcels of five acres or less proposed to be divided into not more than four lots, or divisions which simply change or vacate existing lot lines. Under this process, City staff may administratively waive one or more of the requirements of the subdivision ordinance provided the subdivision otherwise conforms to the zoning ordinance and other city plans and does not involve any new public street. In accordance with this section of the ordinance, City staff has set an administrative policy to generally not require street improvements for subdivisions creating no more than one additional R-1 lot fronting a street that is maintained by the City.

As this subdivision must go through the Preliminary Subdivision process instead of the administrative minor subdivision process, requirements of the ordinance can only be waived by City Council, following consideration of Planning Commission. This section of Ramblewood Road, and most all of Ramblewood Road, does not meet City requirements as it is improved only with approximately a 22 foot pavement width. Therefore, the applicant is requesting a variance to Sections 10-2-66 (Compliance with standards, etc., of city) and 10-2-67 (Responsibility for cost) of the Subdivision Ordinance, that otherwise would have required construction of street improvements including pavement widening, curb, gutter, storm drain and sidewalk.

With the exception of the requested variance, the subdivision otherwise meets all City requirements. The owner has agreed to provide right-of-way across the entire frontage of their property on Ramblewood Road, as required by the Subdivision Ordinance, Section 10-2-45. Land dedication. This right of way dedication is shown by the hatched area on the preliminary plat and consists of 12,525 square feet in area, described in a note as being offset 50 feet from the existing right of way alignment on the opposite side of Ramblewood Road. In addition, the lot can be served by City

water and sewer, with sewer service occurring through a private easement across the parent tract as shown on the plat.

City staff has no concerns with the granting of the requested variance to waive the requirement for construction of street improvements. Although not constructed to City standards, Ramblewood Road is a City maintained street. The only sections of Ramblewood Road meeting the City standard are short sections at its intersections with Stone Spring and Greendale Roads. Constructing improvements along the entire 560 +/- foot frontage of this property would be excessive for a division of one parcel to allow construction of a single family home and would be difficult to do in this curved section of roadway that does not tie into any existing improvements. As explained, if the parent tract had been smaller and the subdivision had qualified for the minor subdivision process, this variance would have been granted administratively. Staff recommends the preliminary plat for approval as requested.

Chair Fitzgerald asked if there were any questions for staff. Hearing none, she continued by saying this is not a public hearing, however the applicant may come forward to speak if they would like.

At this time the applicant declined and the Chair asked if there was further discussion or a motion on the request.

Mr. Way made a motion to recommend approval of the preliminary plat request as presented.

Mr. Heatwole seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

All voted in favor of the motion to recommend approval (6-0).

Chair Fitzgerald said this request would move forward to City Council on August 13, 2013.

***Rezoning – 803, 813, & 833 Chicago Avenue (Family Dollar)***

Chair Fitzgerald read the request and asked staff to review.

Mr. Fletcher said the Comprehensive Plan designates this area as Neighborhood Residential. This designation states that this type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. Infill development and redevelopment must be designed so as to be compatible with the existing character of the neighborhood. These are older neighborhoods, which can be characterized by large housing units on small lots.

The following land uses are located on and adjacent to the property:

- Site: Vehicle repair business; zoned M-1
- North: Taxi cab service and vehicle repair business; zoned M-1
- East: Across Chicago Avenue, single-family homes; zoned R-1
- South: CFW Network offices; zoned B-2 and B-2C
- West: Contractor office, vehicle repair business; zoned M-1 and across undeveloped Rockingham Drive, mini-storage units, zoned M-1

The applicants are requesting to rezone their property on Chicago Avenue from M-1, General Industrial District to B-2C, General Business District Conditional. If the request is approved a Family Dollar store is intended to be constructed on the site.

The property is located along the western side of Chicago Avenue, mid-block between 3<sup>rd</sup> Street and Waterman Drive. Currently situated on the site are several buildings where a truck and tire service center for over the road tractor trailers operates. At present, there are multiple City Code violations, such as storage of inoperable vehicles, overgrown grass and weeds, junk and discarded materials, and unscreened storage and repair of vehicles, occurring on this property and several surrounding parcels. All property owners for those parcels in violation have been notified.

The Comprehensive Plan designates this area which is bounded by undeveloped Rockingham Drive to the north, Chicago Avenue to the east, and 3<sup>rd</sup> Street to the south, as Neighborhood Residential. Previously it was designated Commercial, but was changed during the 2004 Comprehensive Plan Update and now ties together the Neighborhood Residential east of Chicago Avenue and southwest of 3<sup>rd</sup> Street. This land use designation does not support the requested rezoning to General Business District; however staff recognizes that it would probably require control of all parcels within this immediate area in order to develop it residentially. The property is currently zoned Industrial and staff acknowledges that it could be used in ways more intense than the requested use and even less compatible with nearby neighborhoods.

City staff met with the applicant's representatives to discuss our concerns regarding land use, the development of this site, and the nearby neighborhood. In response to staff's concerns the applicants have submitted proffers for use restrictions and site development.

The conceptual site plan, which illustrates an 8,320 square foot building with parking along the front and one side of the building, has been proffered by the applicants. They have stated the building will be constructed as described in the elevation submitted on the site plan. The applicants have also proffered to not allow vehicle sales, vehicle repair, vehicle fuel stations, and bus stations at the property. Staff is appreciative of these proffers which remove uses with the most negative aesthetic impact on the homes across Chicago Avenue. However, staff believes the layout could be more sensitive to the single-family neighborhood by shifting the building forward with parking to the rear, or perhaps buffering the look of the front of the building and the tan-colored, metal walls along the sides of the building with foundation landscaping.

Parking lot landscaping for the proffered site plan would require either seven large deciduous trees, eleven small/ornamental deciduous trees, or a combination of evergreen, large, and small deciduous trees planted within the ten-foot landscape border adjacent to the public street. As well, individual landscaping islands would require one tree and three shrubs to be planted in each. Along with meeting all the requirements of the parking lot landscaping regulations, the applicants are proffering eight additional shrubs or bushes as shown on the proffered plan.

The property has 365+/- lineal feet of road frontage along Chicago Avenue, which allows for a total of 365 square feet of signage on the site. The applicants have proffered a reduction of 90 square feet from the freestanding sign allowance of 240 square feet and 10-feet in height from the 35-foot height allowed in B-2. The proffer provides that the single free standing sign for the site would be limited to 150 square feet and no taller than 25-feet in height. The remaining 215 square feet of allowed signage could be placed on walls of the building. Additionally, there is the potential for LED illumination of signage on walls and freestanding signs. Staff feels the signage permitted by the proffer is still a bit intense for the single-family residences directly across from the property.

The Comprehensive Plan Street Network Map identifies Chicago Avenue as a collector Street; it serves as the access to many local residential streets. Staff believes any commercial use of this site needs to recognize that Chicago Avenue is not an arterial roadway.

While the requested rezoning of the site may be a change for the better from what exists there now, staff continues to have some apprehension regarding the proximity of the development to the single-family neighborhood directly across Chicago Avenue. Staff appreciates the use proffers and additional landscaping; however staff continues to feel the overall signage and layout for the site are not neighborhood friendly. Staff does not recommend in favor of the rezoning request to B-2C.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Colman said is it correct to say the side and back of the subject property are adjacent to Planned Commercial property.

Mr. Fletcher said directly behind the property is Rockingham Drive which separates the site from the Planned Commercial uses that are along Waterman Drive. All of the zoning along Waterman Drive in this area is actually General Industrial. When this area was annexed into the City they were given zoning classifications that were very similar to the existing uses on the site that they were in the County; which is why many of those properties are still zoned M-1. We do have a long term plan for commercial establishments for Waterman Drive. Red Front Supermarket, which is just nearby the subject property, is designated commercial, and there are a few commercial establishments in the area. All of these properties were given the B-2, zoning designation when they were annexed into the City.

Chair Fitzgerald asked if there were any further questions for staff. Hearing none, she opened the public hearing and asked the applicant or applicant's representative to speak.

Richard Johnson with Blackwell Engineering said they had developed the site plan for Family Dollar. I do want to clarify on the landscaping the conflict between shrubs, bushes, and trees; we will be adjusting the proffer letter to state that eight additional trees or bushes in the locations shown. There are probably another 40-60 plantings that are going to be planted as well in order to meet the ordinance. This site is going to be well landscaped. I do not have anything further, unless you have questions regarding the site development.

Mr. Way said from what staff has said about bringing the building forward, more toward the street, are there engineering problems with doing that or is it by choice.

Ken Hammond, agent for the applicants, said this is probably the fifteenth iteration of the site plan; which has caused us a great deal of consternation. It is a triangular site, with existing driveways, add in the size of the building, and the required number of parking spaces and it becomes a challenge. We are a national retailer with 7,500 stores and only 22 distribution centers; we should have ten times as many distribution centers. Therefore, instead of having the smaller city sized trucks delivering to stores once a week, it is a large, eighteen-wheeler that delivers. We need a larger drive aisle to maneuver our trucks on site. Family Dollar is radical about the safety issues on these tighter sites, and this is the preferred layout which makes certain that the truck fits. This is really something that is non-negotiable for us; this is the site plan. It is good from the customer, retailer, and trucking standpoint.

Mr. Hammond continued by saying he would like to address a couple of the comments from staff. When we first approached the City regarding the rezoning we were given a long list of suggestions

of what staff was looking for us to do and I feel we have incorporated all of them, as well as going back to a second round and providing things that the City was not even asking for. Like the sign height, in the B-2 district it is 35-feet in height; we discussed lowering that because that is more like a highway sign height. We agreed that 25-feet would be more appropriate. Upon further discussion, we said our prototype sign is 20-feet; therefore we revised the sign height down to 20-feet in height.

We are trying to cooperate as much as we certainly can. We want to be in this location. The whole neighborhood aspect of the City's long term plan, that we may conflict with now, is actually more of a reason for us to be in this area. We do really well in neighborhood settings; we become somewhat of the "walk-to" grocery store. Our prototype building, as shown on the plan, is actually a brand new type that adds over 50,000 dollars of cost to construction that is totally voluntary on our end. It is a completely different look; it has upgraded building materials and upgraded architectural enhancements. I feel that the retail site plan that is before you, with the added landscaping and certainly with the street improvements that the City is preparing to do, will make for a modern retail look; whereas, right now you have a blighted truck maintenance and repair area. Frankly, allowed by-right, if this rezoning were not to be approved the uses that would go there are much more of a detriment to a neighborhood. I see this as a huge upgrade. We are good corporate citizens and we obviously add to the City's tax base. We hire locally and have many compelling reasons for you to approve this.

Mr. Colman said you talk about the neighborhood friendliness, should there not be some sidewalks from the roadway to the building; a sidewalk through the parking lot or along the side so that persons do not have to walk in and through the parking lot to get to the store.

Mr. Da'Mes agreed and added that it appears to be designed for people coming in with cars, not a neighborhood walking in.

Mr. Hammond said I do not know that we have ever done a store with a sidewalk leading to the store from the street.

Mr. Coleman said what I am trying to point to is to make it more neighborhood friendly. You want to have access for people to walk up to the store without actually having to walk into the parking lot.

There was discussion regarding a location for a sidewalk that would not interfere with the parking lot travelway.

Mr. Hammond said if the approval tonight is a "yes" with the sidewalk and a "no" without, I am certain we could do a sidewalk. I would ask that we keep an eye on budget, with all the landscaping and upgrades to the building, it gets to a threshold where the numbers stop working.

Mr. Da'Mes asked how is the parking space situation; do we have excess parking spaces.

Mr. Fletcher replied that it is the bare minimum of parking spaces.

Mr. Da'Mes asked if there was any consideration to reduce the number of parking spaces to allow for more green space on the site.

Mr. Fletcher said that is a special use permit (SUP) within the B-2 district and they could certainly ask for such. As you know, when you request that particular SUP you must maintain the area as green space, it cannot be used for anything else. We have not discussed this with the applicant.

Mr. Da'Mes said I notice that many of these types of commercial establishments throughout the City seem to have excess parking. It is good to meet the requirements, but there is a lot to be said for reducing that amount too; particularly when you have the situation of a convenience store where customers are not necessarily going to park there for extended periods of time. Accessibility and parking is important for the developer, but sometimes I think we "over pave" areas.

Mr. Fletcher said I had actually thought about this, but I did not discuss it with staff. I envisioned that this was one of those situations where they were already rather constricted with the layout and that they had maximized parking to meet the minimum. I do like the idea of reducing the parking; but that would be a special use permit request.

Mrs. Turner said I think we would need a slight adjustment if the applicant believes this is something they are interested in. The proffers would need to be adjusted or the site plan would need to be changed because the plan is proffered and it shows 42 parking spaces.

Mr. Colman asked if there could be just one entrance dedicated to the truck delivery; rather than having those 38-foot wide drives throughout the site.

Mr. Hammond said the drives are on the City plans currently.

Mr. Fletcher said to clarify what Mr. Hammond is saying is that the two entrances, as shown on the plan, are existing and meeting what the dedicated right-of-way is. The City has already communicated to the property owner about the sidewalk project and has made an agreement with the property owner about how many entrances they will provide to the site. Where those entrances are shown is not something the City said is mandatory.

Mr. Colman said it seems logical to eliminate the middle entrance and have the second entrance further west. This would allow for just a delivery truck entrance and drive aisle.

Mr. Hammond said we looked at every possible aspect for getting this truck on site and what is shown is the one plan that works, perfectly.

Chair Fitzgerald asked if there were any further questions for staff or the applicant. Hearing none, she asked if there was anyone wishing to speak in favor of the request. Hearing none, she asked if there was anyone wishing to speak in opposition of the request. Hearing none, she closed the public hearing and asked for discussion on the rezoning request.

Mr. Way asked if this was part of a corridor enhancement area.

Mr. Fletcher replied I do not think that it is.

Mr. Baugh said those corridors are direct access into the City center; this is just an internal street.

Chair Fitzgerald said when we visited the site on Monday we noted the number of bicycles and pedestrians that travel along this route. It is not too far from Waterman Elementary School and is a major transportation route for people driving, walking, and biking back and forth from the school. One of my concerns is the entrances and exits from this lot onto a two lane interior road of the City, and would they affect those pedestrians travelling to and from the elementary school.

Mr. Fletcher said it is somewhat hard to answer that question. I tend to want to say no, because the entrances are only six feet wider than the minimum standard. I do not know if six feet causes much of a significant concern for us. Any commercial entrance is going to cause concern when you have children walking along the street; but I do not know that it is increased in this particular case.

Mr. Heatwole said I am somewhat torn on this because it is an obvious improvement to this area, but I want to take into consideration the Land Use Guide and staff's input. With the Comprehensive Plan in mind for what works in that area, are there things in addition to the listed proffers that would make this an agreeable request for staff.

Mr. Fletcher said it is difficult to answer that question. Staff did not see any other layouts for this request other than the one before you. I am sure that they looked into every option as they have said and they cannot make it work. The staff report lays out what we feel; it could be more pedestrian oriented by bringing the building closer to the public street. We have not seen any other iterations; this is the layout they want. We have not seen any different ideas such as entrances or entrance types and layout of parking. Obviously if you pull the building closer to the street there is a lot of area behind the building where you could have parking and a loading zone area. We continue to believe that the signage is not really in conformance with this corridor or this area. When I envision something that is more pedestrian friendly I see a sign that is more in the range of ten to twelve feet high. They are allowed a lot of sign area remaining for advertising. There is nothing wrong with the way our sign regulations operate in that manner; it is about how our regulations are put into place at this site. This site is not planned for this type of commercial use or this intensity.

It is not so much that we are completely opposed to commercial, because we recognize the industrial uses that could go on site currently. It is about having this opportunity to do something that is right for the community and do something that is a bit more friendly to the ideals and things that we are striving for. Approving this the way it is shown here does not get us to those goals.

Mr. Way said there are a couple of things referenced in the Chicago Avenue study that was just completed, some of the things that were emphasized in that study were about pedestrian access and the aesthetics to the whole corridor. I think that speaks to this issue of having the building sit back from the road – it does not particularly speak to pedestrian accessibility and improving the walkability of the street.

Another reference is the Comprehensive Plan and not just for this area; but for the goals stated throughout the City to help create more beautiful, walkable areas and enhance social interaction. As well, it discusses avoiding streetscapes dominated by parking lots, and to me this does exactly the opposite of that. I do not think this particular design as shown here follows what the City has put forward in the Comprehensive Plan and, at the moment, I am skeptical of this plan.

Mr. Colman said does the required landscaping provide enough buffering of the area, including the parking lot.

Mr. Fletcher said when we speak of buffering many times there is this idea of buffering and screening that you cannot see through. The answer to your question is probably no, there is not a buffering thing going on here with the landscaping ordinance. What you are achieving is the streetscape of trees being planted between the public street and the parking lot. The amount of trees is based upon the amount of frontage of the parking lot to the public street. With the design shown, they would be required to put in a significant amount of trees along the frontage; of course where they locate them within that ten-foot boarder is entirely up to the developer. They could put them all in one corner, they do not have to be scattered every so many feet to create a buffer or screening.

Mrs. Turner said the staff report does spell out how many trees would be required based upon the frontage of the parking lot. Seven large deciduous, or eleven small/ornamental deciduous trees, or a combination of both and not necessarily evenly spaced out. The landscaping islands would require

one tree and three shrubs to be planted in each, which gives you a better sense of how many trees would be required.

Mr. Colman said my question was more of how does it conform to the residential feel of the area. You can have plenty of trees in one corner, but it does not necessarily meet the intent of the area.

Mrs. Turner said they did offer the one proffer to plant additional trees or bushes. One of the things we mentioned in the staff report, were some foundation plantings around the building that could soften the effect of the commercial appearance as well. This has not been a subject that the applicant has followed up on at this time.

Mr. Da'Mes said there are lots of enhancements planned for the Chicago Avenue corridor, including a round-a-bout, does this affect any of those plans.

Mr. Fletcher replied it does not. I spoke to Public Works staff, specifically about the improvements for this section of Chicago Avenue, and it is shown as two lanes, wider bike lanes, and sidewalk improvements. The City has the amount of right-of-way needed to make the desired improvements.

Mr. Baugh said I may be stating the obvious, but, the entire Chicago Avenue Roadway Project always stands out to me because it is one thing that, when I came on to Council five years ago, was just another aspirational thing that we knew we needed to do. This is one plan that has moved very much toward the front of the line and is second in line; it is behind Reservoir Street improvements. Usually road projects are done to deal with increased traffic; in this case that is not the issue. The existing two lane road is sufficient for the traffic, it is all the pedestrian and bicycling problems that are really driving this road improvement project; making it safe for bicycle and pedestrian traffic. As well, the recognition that the pedestrian traffic will increase once it becomes a safer road to travel.

Chair Fitzgerald said do we have some sense about how much traffic would be added.

Mr. Fletcher said the traffic impact analysis (TIA) was included in the packet. I cannot answer too many technical questions associated with that, but I know the applicant's engineer prepared this and he is available to answer questions. The numbers in the TIA were only associated with the proffered use. If you are looking at the TIA you will notice that the peak hour generator is on Saturday, with 62 total trips.

Chair Fitzgerald said given that there are no traffic problems in the area to speak of, except for the pedestrian and bicycling activity, this does not add a huge load or concern to the area.

Mr. Fletcher said when you compare the industrial uses to the commercial uses some may argue that the commercial uses increase the traffic. Commercial traffic is different from industrial traffic, which is generally employees and trucks; commercial is customers.

Mr. Colman said are you saying that staff is not completely opposed to the idea of commercial; but, is opposed to the proffered layout. If a different layout was presented would that make a difference.

Mr. Fletcher said that is possible; but we have not seen anything different. Honestly, if we were to get into the design specifics and changes here tonight, we could not comfortably give you a solid recommendation on any specific changes. We would have to take some time to look at it and evaluate it.

Mr. Way said to my mind it is about layout; I do not have any particular problem with the commercial use. I think a case can be made for the fact that there are other commercial uses along

that street. It is just the nature of the layout and how it fits with what we think of as being neighborhood residential. All the points that have been emphasized tonight about the pedestrian access along Chicago Avenue and how this plan seems to run counter to that. The whole principle of how it is set up is just problematic to me and the feel of the neighborhood.

Chair Fitzgerald asked if there was a motion at this time.

Mr. Way moved to recommend denial of the rezoning request.

Chair Fitzgerald asked if there was a second.

Mr. Colman seconded the motion.

Mr. Baugh said the one thing that I was considering before voting was whether the applicant would have a preference between going forward with an unfavorable recommendation or tabling this for a month to perhaps make revisions based on tonight's discussion.

Mr. Hammond said I would be willing to commit to a sidewalk to bring pedestrians in towards the store, but again, the site plan is as it is.

Mr. Da'Mes asked if they would like to consider reduced parking spaces.

Mr. Hammond said we are just trying to meet the City's requirements; we do not need those 42 parking spaces. Generally speaking the rule of thumb in retail is five spaces per 1,000 square feet of gross building area. You do not want to have too few spaces; it is like the kiss of death in retail. In the spirit of compromise we could probably delete four spaces; I do not believe that would hurt us. We would delete the spaces and be willing to turn that area into landscaped area.

Mr. Way said would reducing by four spaces change the location of the building.

Mr. Hammond said I do not know that it would. We could remove the four spaces and put in the extra green space and landscaping, then put a sidewalk in connecting the street to our building entrance. That would change the look of this building to something that would be more pedestrian friendly. With all the required landscaping shown on the plan it looks rather friendly, right now it does look somewhat stark.

Mr. Jefferson said he still feels rather torn about this request. I like the idea of the improvement, but I feel we are all very tentative, given the spirit of this area. I too would ask if you may consider tabling this for the month and perhaps re-discussing this with staff. I would also like to see the redesign of the layout with the required landscaping. I am a visual person and I believe it would be very helpful.

Mr. Fletcher said the landscaping that was shown on an earlier version of their site plan was beyond what the City requires. There was a question of if they are going beyond the requirement and they have proffered the plan, do they intend to do more than the requirement. The applicant was not certain that they would go beyond the requirement; therefore, staff asked them to remove it from the proffered plan and only show what they were willing to proffer beyond what was required.

Mrs. Turner said we did not want something proffered to you that was already a requirement within the zoning regulations.

Mr. Colman said during the public hearing the applicant could have shown a presentation, that was not proffered, with all of the landscaping.

Mrs. Turner said yes, but we would have cautioned you that it was just a presentation, not a condition.

Mr. Hammond said there are a lot of good points brought up tonight. If we were trying to rezone from residential to retail, I think this would be a much more relevant discussion. With this however, you are going from industrial, and what is permitted by right here now, is much worse. This has to be somewhat of a fix. I am certainly willing to do the sidewalk and remove the four spaces if that helps us get there.

Mr. Colman said is that really sufficient, why bring it back again if we are not going to agree to it at a later date.

Mr. Da'Mes said I do not know if it is a matter of the sidewalk and four spaces for me; I am thinking reconfigure the layout. If you come back here with the same general concept I would be right back where I am now.

Chair Fitzgerald said it sounds like the applicant is stating that the building is placed where it is going to be.

Mr. Hammond said yes. It is more of a function of the truck that we use to maneuver on site. Safety issues, building size, entrances, parking spaces, and everything incorporated into this.

Chair Fitzgerald said this is a function of a set of rules that you are bound by with the irregular shape of this lot.

Mr. Hammond said yes it is a triangular lot. Accessibility of the truck onto the lot is the first approval I get from Family Dollar when we start this process.

Chair Fitzgerald said it sounds to me that the issue of trading some parking spaces for a reconfiguration is not likely to happen.

Mr. Hammond said it would increase the green space and the pedestrian friendly look you are going for, but I do not know if it slides the building forward.

Mr. Way said in my mind if the building cannot be moved because of all the requirements that Family Dollar has, then I am probably still going to vote no next time as well. To me it is the location. I do appreciate all of your efforts and I do agree it is an aesthetic improvement over what is there right now. My point is we want to have as best an improvement as we can, not just some type of an improvement.

Mr. Colman said it looks as if there may be potential access from undeveloped Rockingham Drive in order to have an entrance.

Mr. Hammond said we were told early on that it was not an option because of the width of the street, and the fact that it is not developed.

Mr. Fletcher said it is a paper street; a combination of grass and gravel and not maintained by the City. You must remember too that one half of the right-of-way is the bike trail.

Chair Fitzgerald asked if the Planning Commission wanted to move forward with the motion and a vote, given the conversation about where the building is likely to be.

Planning Commission elected to vote on the motion.

Mr. Baugh said I sense how the group is voting and I am voting with them. I do get another vote on this and I think you have raised a lot of interesting points, so I will keep an opened mind on this. I am willing to listen to this further and could conceive of voting on this differently at Council level.

Mr. Colman said can they still bring to Council some of the suggested changes, or not.

Mr. Fletcher said this is what moves forward to City Council. If they make any changes it would need to come back to Planning Commission.

Mrs. Turner said there is a caveat that says if it was a proffer that was discussed at Planning Commission it could be brought to City Council. Therefore, some of these things that were discussed could be moved forward. The particular section reads: "Additional conditions or modified conditions may be proffered by the applicant during or subsequent to the public hearing before the Planning Commission; provided, however, that after proffered conditions are signed and made available for public review and the public hearing before the City Council has been advertised no change or modification to any condition shall be approved without a second advertised public hearing thereon. After the City Council public hearing has been advertised or commenced, should additional or modified conditions be proffered by the applicant, which conditions were discussed at the public hearing before the Planning Commission, then a second public hearing need to be held only before the City Council before the application and the modified conditions can be approved".

If the applicant were to bring up things at City Council that were not addressed here they would have to come back here for another public hearing as well. So they could bring up something that was brought up here, but they would perhaps have to have a second advertised public hearing on it at a subsequent City Council meeting.

Mr. Colman said like the removal of the parking spaces.

Mrs. Turner replied removal of the parking spaces is an entire special use process.

Mr. Baugh said that was part of my thinking; if we tabled it and waited to see if the proposal got revised, among the things they were willing to commit to you could also advertise for the SUP.

Mr. Mike Layman, attorney with Layman and Nichols, said he is present tonight as a representative for Red Front Supermarket. We are thrilled to see this area moving towards removing the blight. What we would like to bring to the forefront is the owners of Red Front and Red Front properties have been trying to accumulate some funds themselves to begin to get involved in this area for a general upgrade. For example, you have some repair shops along the back of this property that really need to go if you want to upgrade the surrounding area. The owners of Red Front have some property for sale in the area for possibly some houses; but if Family Dollar came in here and possibly acquired the property in the back that would then allow them to redesign a layout and solve your concerns as well. The owners of Red Front have not been pushing these issues because the property we have for sale has not sold and so forth. We are thrilled to see this area being looked at. It really needs a change; it sits right between Waterman Elementary School and Eastern Mennonite, it is a critical area that we need to do right by. To any extent that we could help in this process, we are here possibly to get involved along the periphery.

Chair Fitzgerald said thank you and asked if that changed any comments for Planning Commission or are we ready for a vote.

Mr. Colman said if they are interested in discussing with the applicants I would think a tabling would be in order.

Mr. Fletcher asked Mr. Layman to return to the podium and describe which lots he was referring to.

Mr. Layman said I am talking about the bike path area that is part of the roadway behind the proposed Family Dollar. There are several car repair shops along this stretch and these lots are so small you really cannot do much with them. I do not know if this area is even for sale at this time. Red Front is not in the position to go offer funds to purchase this property. We were hoping to upgrade that entire area; this area could be absolutely beautiful. Does this clarify your question?

Mr. Fletcher said perhaps I misunderstood; did you say that Red Front owned parcels somewhere along this area?

Mr. Layman said Red Front owns the property where the store sits, there is a parking lot across the street, and they own a lot behind that parking.

Mr. Colman asked what are you suggesting for adjacent to this property.

Mr. Layman said we were going to begin to look at all the property that looks blighted and to see what could be done. Anything that helps that area also helps Red Front.

Mr. Fletcher said the parcels you are referring to as Red Front property do not show up on this image as directly adjacent to the subject property.

Mr. Layman replied no.

Mr. Fletcher said what you are referring to is Red Front coming together with Family Dollar and jointly doing something for the area as a whole.

Mr. Layman replied yes, to help promote cleaning up this entire blighted area. It would be nice to look at this entire area in a comprehensive way and it would probably solve some of the problems you have with Family Dollar.

Chair Fitzgerald said this is a really interesting piece of information and I am glad you came forward to share it. I am going to ask both parties (Family Dollar and Red Front) if there is any possibility of a conversation here.

Mr. Hammond said there is always the possibility and from what I am hearing is that if something starts to improve the area others may want to make the investment to continue that progress. Again, I am here representing Family Dollar as a single tenant entity; they do not get into buying up surrounding properties. We are expanding rather aggressively right now and what you are talking about would monopolize a lot of resources. I will say one thing, we spent over \$10,000 just on technical studies in this area and we have identified several buildings that we will be demolishing that are filled with asbestos; this is a true beautification project.

Chair Fitzgerald said what I am hearing is that you would prefer that we move forward with consideration of just this issue that is before us now.

Mr. Hammond replied I just could not tie any type of a joint venture into our development. Although, we would be more than happy to talk about some type of long term effort or if some type of access was needed to get into the area; but to condition a development approval on something like this would be very cumbersome.

Chair Fitzgerald asked for the motion to be restated.

Mr. Fletcher said the motion is to recommend denial of the request.

Chair Fitzgerald said if you vote “aye” you are recommending denial. She then called for a roll call vote on the motion.

Commissioner Way – aye

Commissioner Colman – aye

Commissioner Da’Mes – aye

Commissioner Heatwole – aye

Commissioner Baugh – aye

Chair Fitzgerald – aye

Chair Fitzgerald said the motion passes and will move forward to City Council on August 13, 2013.

***Zoning Ordinance Amendment – Section 10-3-114(d)***

Chair Fitzgerald read the request and asked staff for their review.

Mr. Fletcher said after hearing three variance requests in just over 18 months regarding locating accessory buildings on residential through lots, the Board of Zoning Appeals (BZA) has asked the City to devise an ordinance amendment that would allow residents, who live on through lots, the ability to locate accessory buildings in established rear yards. The BZA feels this is a hardship that is generally shared by many lots in the City and that a change should be made to the Zoning Ordinance. To accommodate the many residents that have this situation an amendment is needed to Section 10-3-114 Accessory Buildings subsection (d) Location in Setbacks in Residential Districts Prohibited.

Although not defined by the Subdivision or Zoning Ordinances, a through lot is commonly known as a parcel of land, within a block, that has two public street frontages. A corner lot is not a through lot. Many of the City’s through lots already have existing dwellings with physically established front and rear yards. When erecting an accessory building, many accessory building designs do not require building permits because they are less than 250 square feet in size, and when a resident understands this they often abide by the general setback regulation of five feet, but do not understand that by City Code they have two “front” yards, and therefore, cannot have an accessory building.

Currently, Section 10-3-114 (d) states: “No accessory building in a residential district shall be located within the existing setback between a principal building and public street.” To completely comprehend the ramifications of this subsection, one must remember that Section 10-3-114 also requires that accessory buildings in residential districts must be located in the rear yard, shall not occupy more than 30 percent of the required rear yard setback, and shall not be located on property not having a principle building or active use. Accessory buildings can be located up to five feet from interior side and rear lot lines. With all of this in mind, also remember that in most residential districts the setback from a public street right-of-way line is 30 feet. Thus, if one resides on a through lot, then Section 10-3-114 means an accessory structure cannot be located on that property.

There are many parcels across the City classified as through lots. Many of these lots are located along Franklin Street and Bruce Street; Community Street and Broad Street; East Market Street and East Elizabeth Street; Virginia Avenue, Sumter Court, and Rockingham Drive; Old South High Street and South High Street; Stonechris Drive and West Market Street; Hartman Drive, Statton Street, and North Dogwood Drive; Chicago Avenue, Lee Street, Stuart Street, and Grant Street;

Sand Trap Lane and Keezletown Road; Gilmer Circle, Kramer Court, and Peach Grove Avenue; and Landon Drive, Dorval Road, and Greendale Road.

To accommodate these residential property owners, the following amendment is proposed to Section 10-3-114:

- (d) *Location in setbacks in residential districts prohibited.* No accessory building in a residential district shall be located within the existing setback between a principal building and public street; except on through lots where an accessory building may be located within the established rear yard between the principal building and a public street and meet principal building setbacks.

As shown, the proposed amendment would grant residential through lot owners the ability to have an accessory building, but it would not give them all of the flexibility afforded to residents on “normal” lots, who can locate such buildings as close as five feet from the property line. Staff’s reasoning for proposing the language as described is to maintain the appearance of public streetscapes.

Generally, staff believes this is good zoning practice and recommends approving the amendment as proposed.

Chair Fitzgerald asked if there were ever an argument about what the established rear yard was.

Mr. Fletcher said usually there is not. You can clearly tell what the established rear yards are in these depictions; the only times that you do not have an established rear yard is if you have a lot that is a through lot and undeveloped. However, we would argue from a staff perspective that there is an established rear yard of that stretch if everyone else has their homes fronting along one section we would view that as the front. Of course any staff decision we might make they could always appeal to the BZA.

Mrs. Turner said you cannot build an accessory building without having the principle building; so once they construct the dwelling you will have an idea of where the established rear yard is. Unless you have one of those homes that has a front door facing a side yard; then we would probably go with what the remainder of the block has as their rear yard.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Colman said thirty-feet is a significant setback, would we consider something less than that; perhaps twenty-feet, with some type of screening or fencing.

Mr. Fletcher said there are situations where the BZA has approved variances for setback as well as location of the building. Staff liked the idea of the thirty-foot setback from the public street. There may be situations where thirty-feet cannot be accommodated and a variance to setback is necessary.

Chair Fitzgerald opened the public hearing and asked if there was anyone wishing to speak in favor of this request. Hearing none, she asked if there was anyone wishing to speak in opposition of the request. Hearing none, she closed the public hearing and asked for discussion or a motion.

Mr. Heatwole moved to recommend approval of the zoning ordinance amendment as worded.

Mr. Da’Mes seconded the motion.

Chair Fitzgerald called for a voice vote.

Mr. Way abstained from the vote because he resides on a through lot.

All voted in favor of the motion to recommend approval (5-0).

Chair Fitzgerald said this will move forward to City Council on August 13, 2013.

### **Unfinished Business**

None.

### **Public Input**

None.

### **Report of secretary and committees**

Mr. Fletcher said staff visited the Maplehurst/JMU area of the City and there were no violations. For the month of July, inspectors will be in the Long Avenue/Norwood Street area.

Mr. Baugh said everything from our lengthy Planning Commission meeting last month was taken up by City Council last night and everything was acted on identically as here with one exception, the Special Use Permit for the Barry Kelly parking lot/garage. The alley closing and the rezoning requests were approved; but, the SUP was bifurcated and was approved for the parking lot. We tabled the parking garage portion of the request and asked staff to report back at the next meeting on the parking deck/garage issue. In general we asked all parties involved to go back and spend some time trying to see if there is anything the developer might propose or self-imposed limitations. Some type of opportunity to do this in a timely manner. We have not rejected the request, just asked for the extra time and thoughts. Also, Mr. Blatt, who represented some of the adjoining property owners, actually had some specific proposals at last night's meeting and while I do not know that those proposals may not be adopted it does give some time to react to those proposals.

Mr. Way said he had a report from Rockingham County Planning Commission. They are working on a lot of zoning ordinance amendments and updates that are engaged with their sign ordinance, water and sewer matters, and other technical work on the ordinance. There were some interesting concerns expressed about suburbanization around the City, which I thought were quite interesting.

### **Other Matters**

Mr. Fletcher said there is one item on next month's agenda. It is the closing of the remnant portion of Collicello Street for the North Collicello project. I believe that telecommunications will also be on the agenda.

Mr. Colman said I have a question about lots in a subdivision. My lot has four 15 foot wide lots and I would like for us to figure out a way to bring those lots into compliance. Perhaps when the property is being sold or resubdivided. If you do not clean this up then you can change the density of a neighborhood if everyone can build a house on each 15 foot lot. Is this something we can look into?

In Sunset Heights we have all these 15 and 25 foot lots where each house is constructed on three to five lots. It seems that there are also some empty lots that are being constructed on, which changes the density of the street; this happened on my street next to Charlie Chenault's house. What I would like to propose is that we revise that area in terms of when property is being sold all the property lines are vacated and turned into one lot. And if it is going to be subdivided it needs to comply with current regulations.

Mrs. Turner said the specific case where you are discussing is next to Mr. Chenault's house. Therefore you are saying, when Mr. Chenault bought his house he should have been required to erase his internal lots lines; however, he chose not to purchase the two extra lots next to him.

Mr. Colman said then whoever owned that property should not have been allowed to take those two lots and sell them if they were not compliant with today's regulations. All those lots belonged to the one house and should have been vacated.

Mrs. Turner said I believe that is not possible to do. We will discuss it with the City Attorney, but I am pretty sure it is absolutely not something we can do.

Mr. Baugh said there are many things you can do with the rules, but the idea of mandating a vacation of lines to create larger lots I doubt is something you can do.

Mr. Colman said I believe I understand. I have three lots that my house sits across and I would have been fine with the requirement to vacate all the interior lot lines and create one lot. But, I understand if I have additional property beyond where my house sits, I cannot force anyone to vacate property lines and add it to the house property.

Mrs. Turner replied that is correct.

Mr. Baugh said as the owner you can chose to vacate or adjust property lines however you may want to; but the concept of the government requiring you to do so is probably not something we can do.

Mr. Fletcher said there are times when improvements are made to property that we do request interior lines to be vacated. We require property owners to vacate property lines if they are constructing an addition, or building over a property line. If there are six lots and they want to move property lines to create new buildable lots, they have to meet certain standards of widths and depths. We do have situations where we make it more compliant, but those things do not need to come through Planning Commission.

Mr. Colman asked if you could further divide these lots.

Mr. Fletcher said that is a whole different set of regulations.

Mrs. Turner said if you have a 50 foot lot we would not allow you to divide it into two 25 foot lots.

Chair Fitzgerald asked if there was anything else.

Mr. Way said it was announced at City Council last night about the potential for a park in the Municipal Lot area. I do not know how much will be coming through the Planning Commission, but I am on the Plan Our Park Committee and we have a design team chosen. There are some really interesting and exciting plans coming forward, I am trying to encourage the team to consult with us and especially with Council. There may be some things coming forward in the future regarding this, perhaps a resolution of support or something similar.

Mr. Da'Mes asked about public input.

Mr. Way said there will be a public input period, I do not remember exactly the times, but it is a very community engaged process. It is actually very exciting and I am looking forward to working on this project.

### **Adjournment**

The meeting was adjourned at 8:50 p.m.

---

Chair Deb Fitzgerald

---

Secretary, Alison Banks